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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,461	03/30/2000	Bidyut Parruck	2000-P005	8095

7590 01/05/2004
Joseph A Nguyen Esq
3410 Antonacci Ct
San Jose, CA 95148

EXAMINER

TRAN, THIEN D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/539,461

Applicant(s)

PARRUCK ET AL.

Examiner

Thien D Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/18/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being participated by Kaplan et al (U.S Patent No. 6,141,339).

Regarding claims 1, 13, Kaplan discloses a switching arrangement for switching an ATM cell having an ATM cell header, comprising:

an ATM card 206 of figure 2 or 324 of figure 3 (first circuit) configured to receive said ATM cell;

an ATMSONET interface (second circuit) coupled to said first circuit, said second circuit creating a packet header having at least a portion of the information contained in said ATM header and to attach said packet header to said ATM cell, thereby forming an ATM cell-containing packet (col.3 lines 50);

a packet switch device 441 (figure 4) configured to switch packets among a plurality of ports, said packet switch being operatively coupled to said second circuit to receive said

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ATM cell-containing packet through a first port and to switch said ATM cell containing packet to a second port as if said ATM-cell containing packet is a packet of the type normally switched by said packet switch device; and

a MUX for multiplexing and send data packets to SONET ring (third circuit) operatively coupled to said packet switch device for receiving said ATM-containing packet, said third circuit identifying said ATM-containing packet as a packet containing an ATM cell, said third circuit removing said packet header to recover said ATM cell (col.3 lines 60-65).

Regarding claim 2, Kaplan discloses that packet is an Internet packet. See col.4 lines 35-40

Regarding claim 3, Kaplan discloses that packet switching device is part of a router. See col.5 line 24

Regarding claim 4, Kaplan discloses a method for allowing both ATM (Asynchronous Transfer Mode) cells and packets to be routed via a packet switch, comprising:

receiving said packets at a LAN card (first circuit), col.6 lines 15-20;

receiving said ATM cells at an ATM card (second circuit), figure 3;

formatting said ATM cells to fit requirements of said packet switch, thereby creating ATM cell-containing packets; and forwarding both said packets and said ATM cell-containing packets to said packet switch for routing. See col.6 lines 39.

Regarding claim 5, Kaplan discloses that formatting includes padding said ATM cells with additional bits. See col.3 line 5

Regarding claims 6, 9, 14, 15, Kaplan discloses that ATM cells are formatted at a first card that is implemented separately from a second card implementing said packet switch. See col.4 lines 35-45.

Regarding claim 7, Kaplan discloses that first card and said second card are coupled via an optical fiber. See col.6 lines 39.

Regarding claims 8, 20, Kaplan discloses that optical fiber carries data originally contained in both said ATM cells and said packet switch. See col.4 lines 35-40.

Regarding claims 10-12, 21 Kaplan discloses that formatting includes associating said ATM cell-containing packets with tags, said tags allowing a receiver circuit receiving said ATM cell-containing packets from said packet switch to identify said ATM cell-containing packets as packet-like series of bits having therein ATM cells. See figure 9.

Regarding claim 16, Kaplan discloses that first line card and second line card are coupled via an optical fiber, said optical fiber being configured to transport said combined data stream. See col.7 lines 25-45.

Regarding claim 17, Kaplan discloses a traffic management circuit coupled to said third circuit, said traffic management circuit monitoring said ATM cells and said packets to ascertain transmission priorities associated with individual ones of said ATM cells and said packets, said third circuit selecting said selected ones of said ATM cells and said selected ones of said packets for outputting in said combined data stream based on the transmission priorities. See col.7 line 45-55.

Regarding claims 18, 19, Kaplan discloses a given flow associated with said ATM cells is given a minimum bandwidth guarantee by said traffic management circuit, thereby guaranteeing that at least some ATM cells associated with said given flow is passed onto said switch irrespective of traffic condition through said third circuit. See col.4 line 67.

Response to Arguments

3. Applicant's arguments filed 11/28/2003 have been fully considered but they are not persuasive.

4. Applicant argues that Kaplan does not disclose a packet network, an ATM cell-containing packet, and a packet switch device. However, Examiner respectfully disagrees with the argument because Kaplan discloses LAN/Router 204 (packet switch device), wherein the LAN/router 204 providing conversion and transmission data between a LAN card 330 (packet data) and ATM card 324 or ADSL/ATM interface 310. See figure 3, col.5 line 20 to col.6 line 20.

Note – 1) ATM cell is also packet data because the cell or the packet having information in its headers used for switching or routing by the packet switch, which is different from the circuit switch. 2) A packet data from LAN card 33 is converted to ATM cell, which is then transmitted to ATM card 324 port or ADSL/ATM interface 310 port to the ATM network. The ATM cell is then called ATM cell-containing packet.

Conclusion

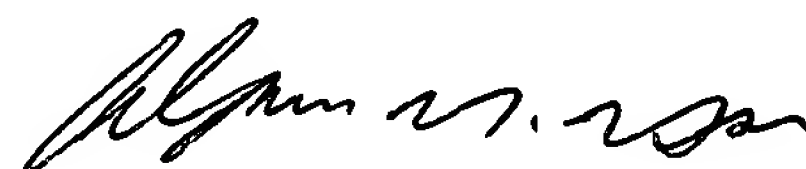
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thien Tran whose telephone number is (703) 308-4388. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (703) 308-6602. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Thien Tran



ALPUS H. HSU
PRIMARY EXAMINER